

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**DR. BART ADAMS, JR, and
JOSEPHINE ADAMS, individually
as parents and next of kin of
BRIAN ADAMS, deceased; and
DR. BART ADAMS, JR. as the
Personal Representative of the
Estate of Brian Adams,**

Plaintiffs,

vs.

THE VANDERBILT UNIVERSITY

Defendant.

Case No. 3:23-cv-00001

District Judge: Eli J. Richardson

Magistrate Judge: Barbara D. Holmes

JURY TRIAL DEMANDED

**MOTION TO ASCERTAIN STATUS OF MOTION TO ALTER OR AMEND
AND FOR RELIEF FROM JUDGMENT**

Plaintiffs, Dr. Bart Adams and Josephine Adams, individually, and Dr. Bart Adams, as the Personal Representative of the Estate of Brian Adams (collectively, “Mr. and Mrs. Adams”) move this Court, pursuant to Local Rule 7.01(c), to ascertain the status of the Motion to Alter or Amend and for Relief from Judgment (Docket Entry No. 51). In support of this Motion, Mr. and Mrs. Adams state as follows:

1. On February 22, 2023, Mr. and Mrs. Adams filed their First Amended Complaint (the “Complaint”) against The Vanderbilt University (“Vanderbilt”) alleging wrongful death negligence, wrongful death negligence – premises liability, violations of

the Americans with Disabilities Act, violations of the Rehabilitation Act, and breach of contract arising from the death of their son and Vanderbilt undergraduate student Brian Adams (“Brian Adams”) (Docket Entry No. 8).

2. On April 10, 2023, Vanderbilt filed a Motion to Dismiss the Complaint for failure to state a claim upon which relief can be granted pursuant to the Federal Rules of Procedure, Rule 12(b)(6). (Docket Entry No. 24).

3. On March 19, 2024, nearly a year after the Motion to Dismiss was filed, this Court entered an Order granting Vanderbilt’s Rule 12(b)(6) motion on Counts I-V, finding that: (1) the Tennessee Supreme Court is unlikely to impose an affirmative duty of care on Vanderbilt based on the facts of the case; (2) Mr. and Mrs. Adams failed to allege a specific physical condition of Vanderbilt’s property that was dangerous or unsafe; (3) Mr. and Mrs. Adams failed to allege that Brian Adams made a request for reasonable accommodation; and (4) Mr. and Mrs. Adams failed to allege facts establishing the existence of an express contract or implied contract created by the student-university relationship. (Docket Entry Nos. 48 and 49).

4. On April 15, 2024, Mr. and Mrs. Adams filed a Rule 59(e) Motion to Alter or Amend the Court’s Memorandum Opinion, attaching a proposed second amended complaint. (Docket Entry No. 51).

5. Dr. Adams is age 73 and suffers from a variety of health issues.

6. Because of the 19 months which have passed during the pendency of both the Motion to Dismiss (Docket Entry No. 24) and the Motion to Alter or Amend (Docket Entry No. 51), and because of the infirmity of the elderly Dr. Adams, father of Brian Adams, the Plaintiffs request to ascertain the status of this pending Motion to Alter or Amend (Docket Entry No. 51).

Dated: December 2, 2024

Respectfully submitted,

/s/ Aaron R. Winters

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Certificate of Service

I hereby certify that on December 2, 2024, a true and accurate copy of the foregoing was served to the following via email and through the court's e-filing system:

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